

EXHIBIT A

to Plaintiff's Motion for Sanctions

**Defendant's Responses to
Plaintiff HP Tuners, LLC's First Set of
Requests for Admission**

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10 Attorneys for Defendant
11 KENNETH CANNATA

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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HP TUNERS, LLC,

Plaintiff,

vs.
KENNETH CANNATA,

Defendant.

CASE NO. 3:18-cv-00527-LRH-WGC

**DEFENDANT'S RESPONSES TO
PLAINTIFF HP TUNERS, LLC'S
FIRST SET OF REQUESTS FOR
ADMISSION**

Attorneys for Defendant Kenneth Cannata ("Cannata"), by and through his counsel of record, KOLESAR & LEATHAM hereby responds to Plaintiff HP Tuners, LLC's ("HPT") First Set of Requests for Admission to Defendant as follows:

GENERAL OBJECTIONS

1. Cannata objects to HPT's Requests for Admissions to the extent they fail to seek and admission of the truth of matters relevant to this action.

2. Cannata objects to HPT's Requests for Admissions to the extent they fail to relate to statements or opinions of fact.

3. Cannata objects to HPT's Requests for Admissions to the extent they seek information prepared in anticipation of litigation or seek the disclosure of theories and opinions of Cannata's legal counsel or his consultants or agents on the grounds that such information is protected from disclosure by attorney work product privilege.

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1 4. Cannata objects to HPT's Requests for Admissions to the extent that, when read
2 with the definitions and instructions provided by HPT, they are so vague, broad, general, and all-
3 inclusive that they do not permit proper or reasonable response and are, therefore, unduly
4 burdensome and oppressive.

5 5. Cannata objects to HPT's Requests for Admissions to the extent that they seek an
6 opinion or statement as to any question of law.

7 **REQUEST FOR ADMISSION NO. 1:**

8 Admit that You provided a Lexar USB Portable Drive to Kevin Sykes-Bonnett prior to
9 October 20, 2016.

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 1:**

11 Cannata admits that he provided a portable USB drive to Kevin Sykes-Bonnett prior to
12 October 20, 2016. Cannata otherwise denies this Request for Admission.

13 **REQUEST FOR ADMISSION NO. 2:**

14 Admit that the document attached hereto as Exhibit 1 depicts an image of folders and
15 files on a "Lexar (E:)" drive You possess or previously possessed at any time since January 1,
16 2016.

17 **RESPONSE TO REQUEST FOR ADMISSION NO. 2:**

18 Cannata denies this Request for Admission. Cannata does not recognize the document
19 attached as Exhibit 1 to HPT's First Set of Requests for Admissions to Defendant.

20 **REQUEST FOR ADMISSION NO. 3:**

21 Admit that the document attached hereto as Exhibit 1 depicts an image of folders and
22 files on a "Lexar (E:)" drive You provided to Kevin Sykes-Bonnett at any time since January 1,
23 2016.

24 **RESPONSE TO REQUEST FOR ADMISSION NO. 3:**

25 Cannata denies this Request for Admission. Cannata does not recognize the document
26 attached as Exhibit 1 to HPT's First Set of Requests for Admissions to Defendant.

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1 **REQUEST FOR ADMISSION NO. 4:**

2 Admit that the document attached hereto as Exhibit 2 depicts an image of the Key
3 Generator Tool you provided to Kevin Sykes-Bonnett.

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 4:**

5 Cannata admits that he provided a key generator tool to Kevin Sykes-Bonnett. Cannata
6 otherwise denies this Request for Admission. Cannata does not recognize the document attached
7 as Exhibit 2 to HPT's First Set of Requests for Admissions to Defendant.

8 **REQUEST FOR ADMISSION NO. 5:**

9 Admit that the document attached hereto as Exhibit 3 is a copy of a Non-Disclosure
10 Agreement You executed with Syked ECU Tuning.

11 **RESPONSE TO REQUEST FOR ADMISSION NO. 5:**

12 Cannata admits that the document attached as Exhibit 3 to HPT's First Set of Requests
13 for Admissions to Defendant is a copy of a Non-Disclosure Agreement he executed with Syked
14 Tuning Software, LLC. Cannata otherwise denies this Request for Admission.

15 **REQUEST FOR ADMISSION NO. 6:**

16 Admit that You have communicated via electronic mail with Kevin Sykes-Bonnett since
17 January 1, 2016.

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 6:**

19 Cannata admits he has communicated via electronic mail with Kevin Sykes-Bonnett since
20 January 1, 2016.

21 **REQUEST FOR ADMISSION NO. 7:**

22 Admit that You have sent email communications to Kevin Sykes-Bonnett using the email
23 address ken_cannata@charter.net at any time since January 1, 2016.

24 **RESPONSE TO REQUEST FOR ADMISSION NO. 7:**

25 Cannata admits he has sent email communications to Kevin Sykes-Bonnett using the
26 email address ken_cannata@charter.net since January 1, 2016.

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1 **REQUEST FOR ADMISSION NO. 8:**

2 Admit that You have received email communications from Kevin Sykes-Bonnett at the
3 email address ken_cannata@charter.net at any time since January 1, 2016.

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 8:**

5 Cannata admits he has received email communications from Kevin Sykes-Bonnett using
6 the email address ken_cannata@charter.net since January 1, 2016.

7 **REQUEST FOR ADMISSION NO. 9:**

8 Admit that You have sent email communications to Kevin Sykes-Bonnett using the email
9 address ken_cannata@att.net at any time since January 1, 2016.

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 9:**

11 Cannata admits he has sent email communications to Kevin Sykes-Bonnett using the
12 email address ken_cannata@att.net since January 1, 2016.

13 **REQUEST FOR ADMISSION NO. 10:**

14 Admit that You have received email communications from Kevin Sykes-Bonnett at the
15 email address ken_cananata@att.net at any time since January 1, 2016.

16 **RESPONSE TO REQUEST FOR ADMISSION NO. 10:**

17 Cannata admits he has received email communications from Kevin Sykes-Bonnett using
18 the email address ken_cannata@att.net since January 1, 2016.

19 **REQUEST FOR ADMISSION NO. 11:**

20 Admit that You were involved with the development of a hardware device for use with
21 Syked ECU Tuning's software at any time since January 1, 2016.

22 **RESPONSE TO REQUEST FOR ADMISSION NO. 11:**

23 Cannata objects to this Request for Admission on the basis that it is vague as to the terms
24 "involved with the development of" and "hardware device." Without waiving such objection,
25 Cannata admits that he developed a hardware device after September 20, 2016 that is compatible
26 for use with certain software developed by Syked ECU Tuning, Inc. Cannata otherwise denies
27 this Request for Admission.

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1 **REQUEST FOR ADMISSION NO. 12:**

2 Admit that You provided Kevin Sykes-Bonnett with an admin version of HPT's MPVI.

3 **RESPONSE TO REQUEST FOR ADMISSION NO. 12:**

4 Cannata objects to this Request for Admission on the basis that it is vague as to the term
5 "an admin version of HPT's MPVI." Without waiving such objection, Cannata denies this
6 Request for Admission. To the best of his knowledge and recollection, Cannata did not provide
7 an admin version of HPT's MPVI to Kevin Sykes-Bonnett.

8 **REQUEST FOR ADMISSION NO. 13:**

9 Admit that You provided Kevin Sykes-Bonnett with technical and/or confidential
10 information relating to HPT's MPVI.

11 **RESPONSE TO REQUEST FOR ADMISSION NO. 13:**

12 Cannata objects to this Request for Admission on the basis that it is vague as to the term
13 "technical and/or confidential information relating to HPT's MPVI." Without waiving such
14 objection, Cannata denies this Request for Admission. To the best of his knowledge and
15 recollection, Cannata did not provide confidential information relating to HPT's MPVI to Kevin
16 Sykes-Bonnett. To the extent that Cannata discussed technical information relating to HPT's
17 MPVI with Kevin Sykes-Bonnett, such discussions were limited to information generally
18 available to the public.

19 **REQUEST FOR ADMISSION NO. 14:**

20 Admit that You possess technical and/or confidential information relating to HPT's
21 MPVI.

22 **RESPONSE TO REQUEST FOR ADMISSION NO. 14:**

23 Cannata objects to this Request for Admission on the basis that it is vague as to the term
24 "technical and/or confidential information relating to HPT's MPVI." Without waiving such
25 objection, Cannata admits that he possesses technical knowledge relating to HPT's MPVI as the
26 development of the MPVI was based in part on information and knowledge developed by
27 Cannata prior to becoming an owner of HPT; Cannata was also involved in the development of
28 the MPVI while he was an owner of HPT. Cannata denies that he possesses any confidential

1 information relating to HPT's MPVI as the technical knowledge he possesses concerning the
2 MPVI is generally available to the public or based on knowledge developed by Cannata prior to
3 becoming an owner of HPT that is not the intellectual property of HPT. Cannata otherwise
4 denies this Request for Admission.

5 **REQUEST FOR ADMISSION NO. 15:**

6 Admit that You have had technical and/or confidential information relating to HPT's
7 MPVI in Your possession at any time on or after October 21, 2016.

8 **RESPONSE TO REQUEST FOR ADMISSION NO. 15:**

9 Cannata objects to this Request for Admission on the basis that it is vague as to the term
10 "technical and/or confidential information relating to HPT's MPVI." Without waiving such
11 objection, Cannata admits that he possesses technical knowledge relating to HPT's MPVI as the
12 development of the MPVI was based on information and knowledge developed by Cannata prior
13 to becoming an owner of HPT; Cannata was also involved in the development of the MPVI
14 while he was an owner of HPT. Cannata denies that he possesses any confidential information
15 relating to HPT's MPVI as the technical knowledge he possesses concerning the MPVI is
16 generally available to the public or based on knowledge developed by Cannata prior to becoming
17 an owner of HPT that is not the intellectual property of HPT. Cannata otherwise denies this
18 Request for Admission.

19 **REQUEST FOR ADMISSION NO. 16:**

20 Admit that You provided Kevin Sykes-Bonnett with HPT's Key Generation tool
21 software.

22 **RESPONSE TO REQUEST FOR ADMISSION NO. 16:**

23 Cannata objects to this Request for Admission on the basis that it is vague as to the term
24 "HPT's Key Generation tool software." Without waving such objection, Cannata admits that he
25 provided HPT's key generation tool software to Kevin Sykes-Bonnett. Cannata otherwise denies
26 this Request for Admission.

27 **REQUEST FOR ADMISSION NO. 17:**

28 Admit that You possess a copy of the HPT Key Generation tool software.

1 **RESPONSE TO REQUEST FOR ADMISSION NO. 17:**

2 Cannata objects to this Request for Admission on the basis that it is vague as to the term
3 “the HPT Key Generation tool software.” Without waving such objection, Cannata denies this
4 Request for Admission. To the best of Cannata’s knowledge and recollection, all copies of the
5 HPT Key Generation tool software in Cannata’s possession were deleted or returned to HPT
6 upon the sale of his ownership interest in HPT.

7 **REQUEST FOR ADMISSION NO. 18:**

8 Admit that You have had a copy of the HPT Key Generation tool software in Your
9 possession at any time on or after October 21, 2016.

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 18:**

11 Cannata objects to this Request for Admission on the basis that it is vague as to the term
12 “the HPT Key Generation tool software.” Without waving such objection, Cannata denies this
13 Request for Admission. To the best of Cannata’s knowledge and recollection, all copies of the
14 HPT Key Generation tool software in Cannata’s possession were deleted or returned to HPT
15 upon the sale of his ownership interest in HPT.

16 **REQUEST FOR ADMISSION NO. 19:**

17 Admit that You provided Kevin Sykes-Bonnett with an admin version of HPT’s VCM
18 Suite software.

19 **RESPONSE TO REQUEST FOR ADMISSION NO. 19:**

20 Cannata objects to this Request for Admission on the basis that it is vague as to the term
21 “admin version of HPT’s VCM Suite software.” Without waiving such objection, Cannata
22 admits that he provided Kevin Sykes-Bonnett with an admin version of HPT’s VCM Suite
23 software.

24 **REQUEST FOR ADMISSION NO. 20:**

25 Admit that You possess an admin version of HPT’s VCM Suite software.

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1 **RESPONSE TO REQUEST FOR ADMISSION NO. 20:**

2 Cannata objects to this Request for Admission on the basis that it is vague as to the term
3 “admin version of HPT’s VCM Suite software.” Without waiving such objection, Cannata
4 admits that he possesses an admin version of HPT’s VCM Suite software.

5 **REQUEST FOR ADMISSION NO. 21:**

6 Admit that You have had an admin version of HPT’s VCM Suite software in Your
7 possession at any time on or after October 21, 2016.

8 **RESPONSE TO REQUEST FOR ADMISSION NO. 20:**

9 Cannata objects to this Request for Admission on the basis that it is vague as to the term
10 “admin version of HPT’s VCM Suite software.” Without waiving such objection, Cannata
11 admits that he possesses an admin version of HPT’s VCM Suite software.

12 **REQUEST FOR ADMISSION NO. 22:**

13 Admit that You provided Kevin Sykes-Bonnett with one or more of HPT’s source code
14 files.

15 **RESPONSE TO REQUEST FOR ADMISSION NO. 22:**

16 Cannata objects to this Request for Admission on the basis that it is vague as to the term
17 “HPT’s source code files.” Without waiving such objection, Cannata denies this request for
18 admission. To the best of his knowledge and recollection, Cannata did not provide any of HPT’s
19 source code files to Kevin Sykes-Bonnett.

20 **REQUEST FOR ADMISSION NO. 23:**

21 Admit that You possess one or more of HPT’s source code files.

22 **RESPONSE TO REQUEST FOR ADMISSION NO. 23:**

23 Cannata objects to this Request for Admission on the basis that it is vague as to the term
24 “HPT’s source code files.” Without waiving such objection, Cannata denies this Request for
25 Admission. To the best of Cannata’s knowledge and recollection, all HPT source code files in
26 Cannata’s possession were deleted or returned to HPT upon the sale of his ownership interest in
27 HPT.

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1 **REQUEST FOR ADMISSION NO. 24:**

2 Admit that You have had one or more of HPT's source code files in Your possession at
3 any time on or after October 21, 2016.

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 24:**

5 Cannata objects to this Request for Admission on the basis that it is vague as to the term
6 "HPT's source code files." Without waiving such objection, Cannata denies this Request for
7 Admission. To the best of Cannata's knowledge and recollection, all HPT source code files in
8 Cannata's possession were deleted or returned to HPT upon the sale of his ownership interest in
9 HPT.

10 **REQUEST FOR ADMISSION NO. 25:**

11 Admit that You provided Kevin Sykes-Bonnett with one or more of HPT's hardware
12 schematics.

13 **RESPONSE TO REQUEST FOR ADMISSION NO. 25:**

14 Cannata objects to this Request for Admission on the basis that it is vague as to the term
15 "HPT's hardware schematics." Without waiving such objection, Cannata denies this request for
16 admission. To the best of his knowledge and recollection, Cannata did not provide any of HPT's
17 hardware schematics to Kevin Sykes-Bonnett.

18 **REQUEST FOR ADMISSION NO. 26:**

19 Admit that You possess HPT's hardware schematics.

20 **RESPONSE TO REQUEST FOR ADMISSION NO. 26:**

21 Cannata objects to this Request for Admission on the basis that it is vague as to the term
22 "HPT's hardware schematics." Without waiving such objection, Cannata denies this Request for
23 Admission. To the best of Cannata's knowledge and recollection, all HPT hardware schematics
24 in Cannata's possession were deleted or returned to HPT upon the sale of his ownership interest
25 in HPT.

26 **REQUEST FOR ADMISSION NO. 27:**

27 Admit that You have had HPT's hardware schematics in Your possession at any time on
28 or after October 21, 2016.

1 **RESPONSE TO REQUEST FOR ADMISSION NO. 27:**

2 Cannata objects to this Request for Admission on the basis that it is vague as to the term
3 “HPT’s hardware schematics.” Without waiving such objection, Cannata denies this Request for
4 Admission. To the best of Cannata’s knowledge and recollection, all copies of HPT hardware
5 schematics in Cannata’s possession were deleted or returned to HPT upon the sale of his
6 ownership interest in HPT.

7 **REQUEST FOR ADMISSION NO. 28:**

8 Admit that You provided Kevin Sykes-Bonnett with one or more of HPT’s MPVI
9 communication protocol documents.

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 28:**

11 Cannata objects to this Request for Admission on the basis that it is vague as to the term
12 “HPT’s MPVI communication protocol documents.” Without waiving such objection, Cannata
13 denies this request for admission. To the best of his knowledge and recollection, Cannata did not
14 provide any of HPT’s MPVI communication protocol documents to Kevin Sykes-Bonnett.

15 **REQUEST FOR ADMISSION NO. 29:**

16 Admit that You possess HPT’s MPVI communication protocol documents.

17 **RESPONSE TO REQUEST FOR ADMISSION NO. 29:**

18 Cannata objects to this Request for Admission on the basis that it is vague as to the term
19 “HPT’s communication protocol documents.” Without waiving such objection, Cannata denies
20 this Request for Admission. To the best of Cannata’s knowledge and recollection, all HPT
21 communication protocol documents in Cannata’s possession were deleted or returned to HPT
22 upon the sale of his ownership interest in HPT.

23 **REQUEST FOR ADMISSION NO. 30:**

24 Admit that You have had HPT’s MPVI communication protocol documents in Your
25 possession at any time on or after October 21, 2016.

26 **RESPONSE TO REQUEST FOR ADMISSION NO. 30:**

27 Cannata objects to this Request for Admission on the basis that it is vague as to the term
28 “HPT’s communication protocol documents.” Without waiving such objection, Cannata denies

1 this Request for Admission. To the best of Cannata's knowledge and recollection, all HPT
2 communication protocol documents in Cannata's possession were deleted or returned to HPT
3 upon the sale of his ownership interest in HPT.

4 **REQUEST FOR ADMISSION NO. 31:**

5 Admit that You provided Kevin Sykes-Bonnett with one or more of HPT's firmware
6 documents.

7 **RESPONSE TO REQUEST FOR ADMISSION NO. 31:**

8 Cannata objects to this Request for Admission on the basis that it is vague as to the term
9 "HPT's firmware documents." Without waiving such objection, Cannata denies this request for
10 admission. To the best of his knowledge and recollection, Cannata did not provide any of HPT's
11 firmware documents to Kevin Sykes-Bonnett.

12 **REQUEST FOR ADMISSION NO. 32:**

13 Admit that You possess HPT's firmware documents.

14 **RESPONSE TO REQUEST FOR ADMISSION NO. 32:**

15 Cannata objects to this Request for Admission on the basis that it is vague as to the term
16 "HPT's firmware documents." Without waiving such objection, Cannata denies this Request for
17 Admission. To the best of Cannata's knowledge and recollection, all HPT firmware documents
18 in Cannata's possession were deleted or returned to HPT upon the sale of his ownership interest
19 in HPT.

20 **REQUEST FOR ADMISSION NO. 33:**

21 Admit that You have had HPT's firmware documents in Your possession at any time on
22 or after October 21, 2016.

23 **RESPONSE TO REQUEST FOR ADMISSION NO. 33:**

24 Cannata objects to this Request for Admission on the basis that it is vague as to the term
25 "HPT's firmware documents." Without waiving such objection, Cannata denies this Request for
26 Admission. To the best of Cannata's knowledge and recollection, all HPT firmware documents
27 in Cannata's possession were deleted or returned to HPT upon the sale of his ownership interest
28 in HPT.

1 **REQUEST FOR ADMISSION NO. 34:**

2 Admit that You provided Kevin Sykes-Bonnett with a PCM Harness for the E38
3 Controller.

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 34:**

5 Cannata objects to this Request for Admission on the basis that it is vague as to the term
6 “PCM Harness for the E38 Controller.” Without waiving such objection, Cannata admits that he
7 provided a PCM harness compatible for use with an E38 controller that is or was available for
8 purchase to the general public to Kevin Sykes-Bonnett. Cannata otherwise denies this request
9 for admission.

10 **REQUEST FOR ADMISSION NO. 35:**

11 Admit that You possess a PCM Harness for the E38 Controller.

12 **RESPONSE TO REQUEST FOR ADMISSION NO. 35:**

13 Cannata objects to this Request for Admission on the basis that it is vague as to the term
14 “PCM Harness for the E38 Controller.” Without waiving such objection, Cannata admits that he
15 possesses a PCM harness compatible for use with an E38 controller that is or was available for
16 purchase to the general public. Cannata otherwise denies this request for admission.

17 **REQUEST FOR ADMISSION NO. 36:**

18 Admit that You have had possession of a PCM Harness for the E38 Controller at any
19 time on or after October 21, 2016.

20 **RESPONSE TO REQUEST FOR ADMISSION NO. 36:**

21 Cannata objects to this Request for Admission on the basis that it is vague as to the term
22 “PCM Harness for the E38 Controller.” Without waiving such objection, Cannata admits that he
23 possesses a PCM harness compatible for use with an E38 controller that is or was available for
24 purchase to the general public. Cannata otherwise denies this request for admission.

25 **REQUEST FOR ADMISSION NO. 37:**

26 Admit that You provided Kevin Sykes-Bonnett with HPT’s PCM Tools Software.

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1 **RESPONSE TO REQUEST FOR ADMISSION NO. 37:**

2 Cannata objects to this Request for Admission on the basis that it is vague as to the term
3 “HPT’s PCM Tools Software.” Without waiving such objection, Cannata denies this request for
4 admission. To the best of his knowledge and recollection, Cannata did not provide HPT’s PCM
5 Tools Software to Kevin Sykes-Bonnett.

6 **REQUEST FOR ADMISSION NO. 38:**

7 Admit that You possess HPT’s PCM Tools Software.

8 **RESPONSE TO REQUEST FOR ADMISSION NO. 38:**

9 Cannata objects to this Request for Admission on the basis that it is vague as to the term
10 “HPT’s PCM Tools Software.” Without waiving such objection, Cannata denies this request for
11 admission. To the best of Cannata’s knowledge and recollection, all HPT PCM Tools Software
12 in Cannata’s possession was deleted or returned to HPT upon the sale of Cannata’s ownership
13 interest in HPT.

14 **REQUEST FOR ADMISSION NO. 39:**

15 Admit that You have had possession of HPT’s PCM Tools Software at any time on or
16 after October 21, 2016.

17 **RESPONSE TO REQUEST FOR ADMISSION NO. 39:**

18 Cannata objects to this Request for Admission on the basis that it is vague as to the term
19 “HPT’s PCM Tools Software.” Without waiving such objection, Cannata denies this request for
20 admission. To the best of Cannata’s knowledge and recollection, all HPT PCM Tools Software
21 in Cannata’s possession was deleted or returned to HPT upon the sale of Cannata’s ownership
22 interest in HPT.

23 DATED this 14th day of June, 2019.

24 KOLESAR & LEATHAM

25 By /s/ Bart K. Larsen, Esq.

26 BART K. LARSEN, ESQ.

27 Nevada Bar No. 8538

28 400 South Rampart Boulevard, Suite 400

Las Vegas, Nevada 89145

Attorneys for Defendant

KENNETH CANNATA

CERTIFICATE OF SERVICE

2 I hereby certify that I am an employee of Kolesar & Leatham and that on the 14th day of
3 June, 2019, I caused to be served a true and correct copy of foregoing **DEFENDANT'S**
4 **RESPONSES TO PLAINTIFF HP TUNERS, LLC'S FIRST SET OF REQUESTS FOR**
5 **ADMISSION** in the following manner:

(ELECTRONIC SERVICE) The above-referenced document was electronically mailed on the date hereof to the following parties:

8 Andrew P. Bleiman, Esq.
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11 | *Attorneys for Plaintiff
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18 *Attorneys for Plaintiff*
17 **HP TUNERS, LLC**

/s/ Mary A. Barnes
An Employee of KOLESAR & LEATHAM